

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

10/009,809

Applicant(s)

EISENBERG ET AL.

Examiner

CHUN DAHLE

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 12 June 2008 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file **IN TRIPLICATE** a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

Appellant has not responded to the provisional nonstatutory obviousness type double patenting rejection of the instant claims 63-70 and 72-80 over claims 1-44 of US Patent 7,112,568 and copending USSN 11/214,588. Appellant asserts that the rejection is not presented for Appeal and will be addressed in an appropriate manner presuming the rejection on Appeal (35 U.S.C. 103(a)) is reversed (see page 6 of the Appeal Brief filed on June 12, 2008). Therefore, appellant's Appeal Brief is considered non-compliant because an appellant's Brief is not responsive to every ground of rejection stated by the examiner. See MPEP 1205.02.

/Maher M. Haddad/
Primary Examiner, Art Unit 1644